

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

JELANI R. ROGERS,

Plaintiff,

v.

**CITY OF YONKERS POLICE DEPARTMENT
et al.**

Defendants.

05 Civ. 102 (SCR)

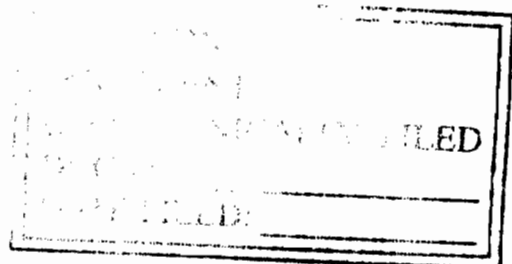
**MEMORANDUM DECISION
AND ORDER**

STEPHEN C. ROBINSON, United States District Judge.

The plaintiff, Jelani R. Rogers, commenced this action against the City of Yonkers Police Department, Officer Ray Montero, and Officer Brain Minton (collectively, the “defendants”) to recover for alleged injuries sustained as a result of his arrest on September 11, 2004.

The defendants have filed a motion to dismiss this action under Rule 37 of the Federal Rules of Civil Procedure. Under Rule 37(d)(1)(A), if a “party, after being properly served with interrogatories under Rule 33 or a request for inspection under Rule 34, fails to serve its answers, objections, or written response,” then a “court may, on motion, order sanctions.” Sanctions may include “dismissing the action or proceeding in whole or in part.” FED. R. CIV. P. 37(b)(2)(A)(v).

In their motion, which is supported by the Declaration of Rory McCormick, Association Corporation Counsel for the City of Yonkers, the defendants note that for over two years the plaintiff has failed to provide any answers or to object to any interrogatories duly served under Rule 33 and failed to provide any responses or object to any demands for document production



pursuant to Rule 34. The plaintiff also has failed to submit to a deposition. The defendants' motion, which was filed on September 17, 2008, is unopposed.

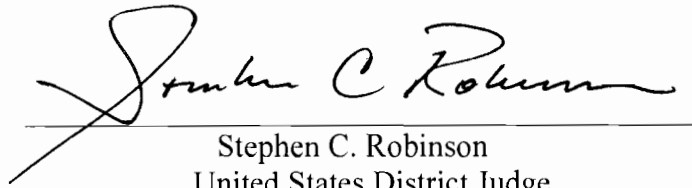
The Court grants the defendants' motion, and this case is dismissed under Rule 37(d)(1)(A) and (b)(2)(A)(v).

The Clerk of the Court is directed to close this case, including docket entry number 23.

It is so ordered.

Dated: February 17, 2009

White Plains, New York



Stephen C. Robinson
United States District Judge